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4 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
5 AT TACOMA

6 DEVIN KONECNY,

7 Plaintiff,

8 v.

9 DEPARTMENT OF ASSIGNED
COUNSEL, et. al.,

10 Defendants.

Case No. C17-05588 BHS-TLF

**REPORT AND
RECOMMENDATION Noted for:
September 29, 2017**

11 On July 31, 2017, plaintiff Devin Konecny filed a proposed civil rights complaint. Dkt. 1.
12 He did not pay the Court's filing fee or submit an application for leave to proceed *in forma*
13 *pauperis* (IFP). *Id.* On August 2, 2017, the Clerk advised plaintiff that he must submit an IFP
14 application on or before September 1, 2017, and that if he failed to do so, the Court would
15 recommend dismissal of this action Dkt. 2. Plaintiff did not do so. This action should be
16 dismissed without prejudice.

17 **DISCUSSION**

18 A district court may permit indigent litigants to proceed *in forma pauperis* upon
19 completion of a proper affidavit of indigency. *See* 28 U.S.C. §1915(a). However, the court has
20 broad discretion in denying an application to proceed *in forma pauperis*. *Weller v. Dickson*, 314
21 F.2d 598 (9th Cir. 1963), *cert. denied*, 375 U.S. 845 (1963).
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1 **CONCLUSION**

2 Because plaintiff has failed to comply with this Court's directive to pay the Court's filing
3 fee or submit a proper application to proceed *in forma pauperis*, this case should be dismissed
4 without prejudice.

5 Pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal Rules of Civil Procedure
6 ("Fed. R. Civ. P."), plaintiff shall have **fourteen (14) days** from service of this Report and
7 Recommendation to file written objections thereto. *See also* Fed. R. Civ. P. 6. Failure to file
8 objections will result in a waiver of those objections for purposes of appeal. *Thomas v. Arn*, 474
9 U.S. 140 (1985). Accommodating the time limit imposed by Rule 72(b), the Clerk is directed set
10 this matter for consideration on **September 29, 2017**, as noted in the caption.

11 Dated this 13th day of September, 2017.

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Theresa L. Fricke
15 United States Magistrate Judge
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